CORPORATIONS—SHAREHOLDERS' LIABILITY AFTER TRANSFER.—The effect of transferring stock in a corporation to relieve the former stockholder from liability as such is considered in *Rochester & K. F. L. Co.* v. *Raymond* (N. Y.), 47 L. R. A. 246, which holds that a subscription to stock does not imply an agreement to pay for it in full, but is only a contract to enter into the relation of stockholder, and that, if a corporation permits a transfer of stock by canceling the certificate and issuing a new one to the purchaser, whom it attempts to hold as stockholder, it ratifies the transaction and cannot subsequently deny that the transfer is valid. With this case is a note reviewing the decisions on the effect of such a transfer upon liability for unpaid subscriptions.

In Virginia, it is declared by statute that on any assignment of shares, the assignee and assignor shall be severally liable for all installments, accrued or to accrue. Va. Code, sec. 1130.

PUBLIC CORPORATIONS—LIABILITY IN TORT.—The managers of a public incorporated institution for the insane, owned and controlled by the State, but having power to sue and be sued, diverted the water of a stream for the uses of the institution, to the injury of a lower riparian proprietor. *Held*, That the institution was liable for damages. *Bank of Hopkinsville* v. *Western Ky. Asylum* (Ky.), 56 S. W. 525.

This decision is based on the previous Kentucky case of *Herr* v. *Central Ky. Lunatic Asylum*, 30 S. W. 971, 28 L. R. A. 394, in which it was held that a public charitable corporation was subject to injunction against continuing a nuisance by the fouling of a stream and casting sewage upon the land of a lower proprietor.

It will be noticed that in each of these cases there was an invasion of the property of the plaintiff, and a virtual taking of the property without just compensation. The cases are therefore in line with that of *Garrett* v. *Lunatic Asylum*, 27 Gratt. 163.

In *Williamson* v. *Louisville Industrial School*, 95 Ky. 251, 23 L. R. A. 200 the same court held that a public charitable corporation was not responsible for the negligent or malicious wrongs of its officers and servants, resulting in personal injuries to one of the inmates. This case has its counterpart in the recent Virginia case of *Maia* v. *Eastern State Hospital*, 97 Va. 507, 5 Va. Law Reg. 534.

This distinction between the liability of such corporations for the wrongful invasion of the property of another, resulting in a benefit to the corporation, and mere negligences of their officers and agents, is discussed in the editorial note to *Maia* v. *Eastern State Hospital*, 5 Va. Law Reg. 543.

SETTING OFF ONE JUDGMENT AGAINST ANOTHER.—In *Zinn* v. *Dawson*, 34 S. E. 784, the Supreme Court of West Virginia holds that where the defendant in an action at law has a set-off, in the shape of a judgment against the plaintiff, he need not plead it as a set-off in the action, but may allow judgment to go by default, and may afterwards, in the same court, apply to have the judgment against him reduced *pro tanto* by the set-off. Hence, the remedy at law being complete, equity will not entertain a suit on behalf of the defendant in the action at law, to enjoin the judgment and to let in the set-off.

"That one judgment," says the court, "may be set off against another, and the larger one discharged *pro tanto*, see *Skrine* v. *Simmons*, 36 Ga. 402; also, *Scott* v.

Rivers, 1 Stew. & P. 24, where it was held that 'courts of law, in the exercise of legitimate and incidental powers, have authority to authorize the set-off of one judgment against another, existing between the same parties in the same court.'

"The practice in this matter of setting off judgments is indicated in 2 Freem. Judgm. sec. 467, where it is said: 'The satisfaction of a judgment may be wholly or partly produced by compelling the judgment creditor to accept in payment a judgment against him in favor of the judgment debtor, or, in other words, by setting off one judgment against another. This is usually brought about by a motion in behalf of the party who desires to have his judgment credited upon, or set off against, a judgment against him. The court, in a proper case, will grant the motion. Its power to do this cannot be traced to any particular statute, and exists only in virtue of its general equitable authority over its officers and suitors'—citing numerous authorities. See, also, Wat. Set-Off, secs. 345, 346."

See *Faulkner* v. *Harwood*, 6 Rand. 125; *Slack* v. *Wood*, 9 Gratt. 40; *Hudson* v. *Kline*, 9 Gratt. 379; *Meem* v. *Rucker*, 10 Gratt. 506.

PLEADING—NON ASSUMPSIT—NON-MATURITY OF DEBT—PLEA IN ABATEMENT.—In *Bacon* v. *Schepflin* (Ill.), 56 N. E. 1123, it is held that under the general issue of *non assumpsit*, the defendant may prove non-maturity of the debt sued for, and need not plead it in abatement.

The decision is sustained by a long line of Illinois cases cited in the opinion, and rests upon the sound principle that it is an essential part of the plaintiff's case to prove that the debt was due and unpaid at the time of suit brought.

Where, however, the debt has matured, but the creditor, for a valid consideration, before suit brought, agrees to extend the time of payment, a different principle applies, and the new agreement must be set up by plea in abatement, and cannot be pleaded in bar. On this point the court in the same case said:

"In cases where the agreement was merely to extend the time of payment, and suit was brought before the time of extension had passed, the cause of action had become complete, and the claimant was entitled to proceed, as his rights were fixed. In such case he merely agrees to give a further day of payment and delay suit. The proof of such an agreement to extend the time of payment does not tend to show that no cause of action ever existed. A cause of action, complete and matured, has existed, and the agreement to extend the time merely postpones the exercise of a remedy already completely vested. The proceeding in such a case is a dilatory one, seeking merely to delay the assertion of a right of action; and, as it is dilatory merely, it should be set up by plea in abatement, and not by plea in bar."

In the same case it is properly held, that a judgment in favor of the defendant, based on the non-maturity of the debt, is no bar to a subsequent action for the same debt, after it has matured.